

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Petitioner,

Case No. 1:06-MC-84
1:06-MC-85

v

Hon. Gordon J. Quist

THOMAS L. JENSEN,

Respondent.

REPORT AND RECOMMENDATION

This is a proceeding to judicially enforce Internal Revenue Service summonses issued to Thomas L. Jensen of Edmore, Michigan, by a duly-commissioned revenue officer of the Internal Revenue Service. This proceeding is brought pursuant to 26 U.S.C. § 2402(b) and 26 U.S.C. § 2404(a). The summonses arise out of an investigation of the tax liability of the respondent for the calendar years 1995, 1999 and 2001 (1:06-MC-84), and calendar years 2002 through 2004 (1:06-MC-85).

A Petition to Enforce the IRS summons in 1:06-MC-84 was filed on June 20, 2006, and an Order to Show Cause directed to the respondent was issued by this court in regard to that petition on July 10, 2006. A Petition to Enforce Internal Revenue Summons in 1:06-MC-85 was filed on June 26, 2006, and an Order to Show Cause directed to the respondent was entered on July 13, 2006. Both orders were sent by certified mail, return receipt requested, to respondent at his residence and received there on July 15, 2006 by respondent (1:06-MC-85) and his father (1:06-MC-84).

Respondent was directed by the Orders to Show Cause to file a written response to the petitions within five (5) days of service of the court's orders (i.e., not later than July 20, 2006) and thereafter to appear for a hearing on the Orders to Show Cause this date. Respondent neither filed responses to the petitions as directed, nor appeared at the time scheduled.

On the basis of the petitions, the declarations of the revenue officer, and affidavits of in-house counsel for the Internal Revenue Service, to which no answer or objection has been made, I find that the investigations of the respondent referred to in the petitions are being conducted pursuant to legitimate purposes (specifically, to investigate the federal tax liabilities of respondent and to collect those taxes), that the information which petitioner seeks by use of the summonses served on the respondent is relevant and necessary to that purpose, that the information sought thereby is not already within the possession of the Internal Revenue Service, that no Justice Department referral for criminal prosecution of the respondent is in effect at this time, that no recommendation for prosecution of the respondent has been made by the Internal Revenue Service to the Department of Justice, and that the administrative steps required by the Internal Revenue Code to obtain the information sought have been followed.

Accordingly, I respectfully recommend that an order be entered compelling respondent to comply with the terms of each of the subpoenas heretofore served upon him, and that said order specifically state a time, date and place for such compliance. Further, in light of respondent's complete failure to respond to this court's Orders to Show Cause, I recommend he be assessed costs.

Dated: August 17, 2006

/s/ Hugh W. Brenneman, Jr.
Hugh W. Brenneman, Jr.
United States Magistrate Judge

ANY OBJECTIONS to this Report and Recommendation must be served and filed with the Clerk of the Court within ten (10) days after service of the report. All objections and responses to objections are governed by W.D. Mich. LCivR 72.3(b). Failure to serve and file written objections within the specified time waives the right to appeal the District Court's order. *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).